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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,375	01/26/2007	Andrew Michael Wild	148392.00000	3476

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EXAMINER

DORNBUSCH, DIANNE

ART UNIT	PAPER NUMBER
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3773

MAIL DATE	DELIVERY MODE
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02/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,375

Applicant(s)

WILD, ANDREW MICHAEL

Examiner

DIANNE DORNBUSCH

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/14/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/26/2007 and 05/17/2007.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The disclosure is objected to because there is two Detailed Description titles in the specification, one in page 3 and the other in page 10.

Appropriate correction is required.

Claim Objections

3. Claims 5-21 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim *cannot depend* from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-21 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Nilsson (6,138,678).

Nilsson discloses the following claimed limitations:

Claim 1: A surgical clip (10) for occluding a body passageway, the clip comprising: a base portion (13), at least one resilient limb (16 and 17) extending from the base portion (Fig. 1 and 7, where Fig. 7 shows another embodiment) and having a free end (16' and 17') disposed forward of the base portion (Fig. 1), and a reaction portion (14) mounted to the base portion (Fig. 1), the reaction portion (15, 15' where 15' is shown in Fig. 7 which is the other embodiment) defining a generally forwardly directed reaction surface (the reaction surface will have an forward force going towards the end of the limbs when the object is placed on top of it) disposed between the base portion and the free end of the limb or limbs (Fig. 1 and 7), the limb or limbs (16 and 17) being movable under a

resilient restoring force from a first, open condition (Fig. 1 and 7), in which a gap is provided between the limb or limbs (Fig. 1 and 7) and the reaction portion (15, 15') for receiving the body passageway into the clip (Col. 2 Lines 36-41 and 50-55), to a second, closed condition (Fig. 2 and 6), in which the limb or limbs (16 and 17) cooperate with the reaction portion (15, 15') to grip the body passageway to occlude the same (Col. 2 Lines 36-41 and 50-55).

Claim 2: That the clip (10) has a pair of such limbs (16 and 17) each extending in generally opposite lateral directions (Fig. 1 and 7) from a point of connection to the base portion (13) of the clip (10) and configured along its length so that the free end (16' and 17') of the limb (16 and 17) is disposed forward of the base portion of the clip (Col. 2 Lines 30-32).

Claim 3: That the base (13) and reaction portions (15, 15') are disposed generally centrally between the pair of limbs (Fig. 1 and Fig. 7).

Claim 4: That the reaction surface (15, 15') is substantially fixed in relation to the movement of the limb or limbs (Fig. 1-2 where only the limbs are moved).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents Sancoff (5,083,741) and Watson et al. (6,443,958) all disclose a surgical clip with resilient limbs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANNE DORNBUSCH whose telephone number is

Art Unit: 3773

(571)270-3515. The examiner can normally be reached on Monday through Thursday 7:30 am to 5:00 pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. D./
Examiner, Art Unit 3773


(JACKIE) TAIN-YEN HO
SUPERVISORY PATENT EXAMINER